

Entered - 11/14/00 - sb
CL00L0689 - DIANNE C. MITCHELL

00- *R* -2034

CLAIM OF: **CARLTON DWAYNE MARTIN,**
through his attorney,
Sheryl Barnes
531 Boulevard, SE
Atlanta, Georgia 30312

For damages alleged to have been sustained as a result of an arrest on
September 1, 2000 at an undisclosed location.

THIS ADVERSED REPORT IS APPROVED

BY: *Rosalind R Newell*
ROSALIND RUBENS NEWELL
DEPUTY CITY ATTORNEY

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 00L0689

Date: December 1, 2000

Claimant /Victim CARLTON DWAYNE MARTIN

BY: (Atty) Sheryl Barnes

Address: 531 Boulevard, SE, Atlanta, Georgia 30312

Subrogation: Claim for Property damage \$ not stated Bodily Injury \$

Date of Notice: 11/13/00 Method: Written, proper X Improper

Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X

Date of Occurrence 09/01/00 Place: not stated

Department Police Division:

Employee involved Disciplinary Action:

NATURE OF CLAIM: The claimant alleges that he was falsely arrested by a Fulton County police officer due to a clerical error the State Department of Public Safety made regarding his driver's license records. The City of Atlanta was not responsible for the error. Additionally, the City is immune from liability as set forth in O.C.G.A. §36-33-1 and §26-33-3.

INVESTIGATION:

Statements: City employee Claimant Others Written Oral

Pictures Diagrams Reports: Police Dept Report Other

Traffic citations issued: City Driver Claimant Driver

Citation disposition: City Driver Claimant Driver

BASIS OF RECOMMENDATION:

Function: Governmental X Ministerial

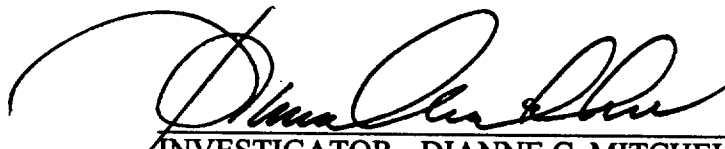
Improper Notice More than Six Months Other X Damages reasonable

City not involved Offer rejected Compromise settlement

Repair/replacement by Ins. Co. Repair/replacement by City Forces

Claimant Negligent City Negligent Joint Claim Abandoned

Respectfully submitted,



INVESTIGATOR - DIANNE C. MITCHELL

RECOMMENDATION:

Pay \$ Adverse X Account charged: 1A01 2J01 2H01

Claims Manager: Concur/date 12-01-00

Committee Action: Council Action

M. F. R. L. L.
11/13/00
M

SHERYL BARNES, P.C.
ATTORNEY AT LAW

531 Boulevard, S.E.
Atlanta, Georgia 30312
404-627-1116 Telephone
404-622-6619 Fax

3551 N. Cooper Lake Road
Smyrna, Georgia 30082
770-432-4206 Telephone
770-438-1337 Fax

**VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

**ENTERED - 11-14-00 - SB
00L0689 - DIANNE MITCHELL**

November 1, 2000

The Honorable William Campbell
Mayor, City of Atlanta
City Hall, Suite 2400
55 Trinity Avenue SW
Atlanta, Georgia 30335

Re: *Ante Litem Notice*
Claimant: Carlton Dwayne Martin
Date of Incident: July 2, 2000
Nature of Claim: Wrongful License Suspension and Arrest

Dear Mayor Campbell:

Please be advised that this firm has been retained to represent Mr. Carlton Dwayne Martin with respect to claims for his injuries sustained in an incident that occurred on or about July 2, 2000. This notice is given pursuant to O.C.G.A. § 36-33-5, in order to present the claims of Mr. Carlton Dwayne Martin against the City of Atlanta. For your information, I am setting forth the date of the incident that caused Mr. Martin injuries and the type of injuries for which the claims are made. Should you require additional information to consider and adjust Mr. Martin's claim, please contact me at your convenience.

On or about November 4, 1999, Carl Dewitt Martin, the identical twin brother of Carlton Dwayne Martin, presumably was involved in an automobile collision at the Harris Teeter store located at 954 Peachtree Road, Atlanta, Georgia. DeKalb County Police Officer M.W. Williams, arrived at the scene to investigate the incident. Officer Williams requested Carl Dewitt Martin's driver's license and insurance card. Mr. Martin gave Officer Williams his insurance card, and Officer Williams wrote that information on the Georgia Uniform Motor Vehicle Private Property Accident Report ("the incident report"). However, Mr. Martin did not have his driver's license with him. Therefore, Officer Williams took Mr. Martin's name and retrieved the driver's license information himself. Officer Williams obtained Carlton Dwayne Martin's driver's license number and placed it on the report along with the name Carlton Dewitt Martin.

Based on the conflicting information on the incident report, an employee(s) and/or agent(s) of State Farm Mutual Automobile Insurance Company contacted the Georgia Department of Public Safety to have the driving privileges of Carlton Dwayne Martin suspended on or about July 2, 2000. Carlton Dwayne Martin never received notice of the license suspension.

On or about September 1, 2000, Carlton Dwayne Martin was stopped by Fulton County Police Officer Bohannon for having an expired tag on his vehicle. When Officer Bohannon checked Mr. Martin's license number, he found that Carlton Dwayne Martin's driver's license had been suspended. The officer issued Mr. Martin a notice of the suspension and turned him over to the City of Atlanta Police for arrest. The charges are currently pending in the State Court of Fulton County. Carlton Dewitt Martin was detained in jail for approximately fifteen (15) hours. As a result of Mr. Martin's arrest, he suffered public humiliation and mental and emotional distress.

This letter constitutes Ante Litem notice pursuant to O.C.G.A. § 36-33-5 on behalf of Mr. Martin. For your information I have set forth above the date of the incident which caused Mr. Martin's injuries, and the type of injuries for which the claims are made. Should you require additional information to consider and adjust Mr. Martin's claim, please contact me at your convenience.

Additionally, this letter constitutes a request pursuant to O.C.G.A. § 33-3-28, for information regarding any policies of insurance that you believe provides or may provide coverage to the City of Atlanta for Mr. Martin's claims. In the connection, please provide the following information regarding any such insurance policies:

- (1) Each policy of insurance including excess or umbrella insurance and the amount(s) of any self-insured retention;
- (2) Name of the insurer, address and telephone number of the insurance;
- (3) Number of the policy;
- (4) Name and address of each named insured; and
- (4) Limits of coverage;
- (5) Name, address and telephone number of any third person or entity responsible for administering coverage and/or any self-insured protection. In lieu of this information you may simply provide a copy of the policy, including the declaration's page.

Please provide this information within ten (10) days of your receipt of this notice.

Finally, this letter constitutes formal notice that the following things constitute evidence relevant to claims that Mr. Martin may have against you and should not be altered, or disposed of in any way:

- (1) Documents generated either by the DeKalb County Police Department, the City of Atlanta Police Department, Fulton County Police Department, or the Georgia Department of Public Safety;
- (2) Any photographs of Mr. Martin as a result of the incident;
- (3) Documents generated by the DeKalb County Police Department, the City of Atlanta Police Department, Fulton County Police Department, or the Georgia Department of

- Public Safety regarding the suspension of Mr. Martin's driver's license and for any audio or tapes regarding this incident;
- (4) Documents generated by the DeKalb County Police Department, the City of Atlanta Police Department, Fulton County Police Department, or the Georgia Department of Public Safety regarding Carlton Dwayne Martin's driver's license number; and
 - (5) Any and all documents, or evidence relating to incidents of a similar nature.

On behalf of Carlton Dwayne Martin,

Very truly yours,

A handwritten signature in black ink, appearing to read 'Sheryl Barnes', is written over a horizontal line.

Sheryl Barnes
Attorney at Law